



Montana
Office of Public Instruction
Denise Juneau, State Superintendent

opi.mt.gov

Written Testimony for HB 534, Require proof of citizenship to receive state services

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The Office of Public Instruction issues educator licenses. In order to be licensed as a teacher in Montana, a person must be 18 years of age or older, of good moral and professional character, have completed a teacher education program, and take an oath to support the Constitution of the United States and the Constitution of the State of Montana. The Office of Public Instruction does not ask the applicant to identify his/her citizenship.

It is not uncommon for an applicant for licensure to have completed a teacher preparation program in a country other than the U.S.

The Board of Public Education requires an applicant for educator licensure to submit to a fingerprint-based criminal history background check.

In order to verify a student's or an applicant's citizenship or legal status, the Office of Public Instruction would need to upload data on 44,000 high school students and 6,000 annual applicants for licensure to the U.S. Department of Homeland Security at the cost of \$.50 per name at an estimated cost of \$50,000 on the assumption that high school names would only be submitted once annually. If initially submitted information does not meet criteria established by the SAVE program and 'retry' is an additional \$.50. If there is any 'additional verification' beyond the 'retry' is required this is yet another \$.50 charge. For each filing of data to the SAVE system there is a \$25.00 transaction charge.

The Office of Public Instruction does not admit or enroll students into public schools. School districts enroll students. The OPI collects enrollment information from schools through the statewide student information system (AIM). This collection is done only twice per year, early October and early February. Student populations, particularly in Montana's larger communities, are very fluid throughout the entire school year.

It appears that there are 5 data fields used in the SAVE verification process and OPI collects only three of these data fields for students and licensure applicants. The two data elements not collected are the Alien Registration Number/Form I-94 Number or Social Security Number. The last four digits of a licensure applicant social security number are collected in the application process. It is unclear at this time whether or not the students name, nationality, and date of birth will be enough information to return usable information for the process intended in HB534 regarding high school students admission into secondary school.

Presently in the Legislative process \$4,000,000 of General Fund dollars with nearly \$35,000,000 of matching federal funds have been cut from programs that provide direct services to students, many of whom are among the neediest in our state. If passed, this bill would increase state government purely for bureaucratic purposes in education. The OPI would need .25 FTE, for a Student Records Manager (Data Control Specialist, Band 05) at a personal services cost of \$11,313 in FY 2012 and \$11,270 in FY 2013 to submit data to the U.S. Department of Homeland Security and to act upon the results that OPI receives from the alien verification system for entitlement programs. The operating budget to support this staff position is \$3,000 annually in FY 2012 and FY 2013. There is a 2% per year inflation factor applied to personal services and operating expenses in FY 2014 and FY 2015.

It is unclear whether a requirement to upload student data to the U.S. Department of Homeland Security would be a violation of the federal Family Education Rights and Privacy Act.

It is unclear if the Office of Public Instruction has the authority to order a student to be removed from the school. Local law enforcement might need to be involved.

Denying enrollment or funding based on a child's immigration status appears to violate the Fourteenth Amendment of US Constitution and provisions of Montana's Constitution. Under Plyer v. Doe, the US Supreme Court held that: Whatever the legal status of an immigrant is, they are considered a "person" under the 14th Amendment of the US Constitution, which say: "... nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of laws." Montana Constitution, Article II, Section 17: "Due process of law. No person shall be deprived of life, liberty, or property without due process of law." Montana Constitution, Article X, Section 1: "(1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state"

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